Doc Code: AP.PRE.REQ

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OCT 25 2005

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional)
	IDF 1398 (4000-00700)

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number	Filed
on _10-25-2005_ Signature_ *Edith Shek* _	09/698,729	October 27, 2000
	First Named Inventor Brandon Camp	
Typed or printed name _ Edith S. Shek _	Art Unit 2127	Examiner Kenneth Tang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
   See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
   (Form PTO/SB/96)

☑ attorney or agent of record.
   Registration number _____50,487_____

☐ attorney or agent acting under 37 CFR 1.34.

   Registration number if acting under 37 CFR 1.34 _____

_ *Grant Rodolph* _
                                   Signature

Grant Rodolph
                          Typed or printed name

(972) 731-2288
                          Telephone number

_10/25/05_
                                   Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of ___1___ forms are submitted.

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Claims 1-21 are pending and are set out in pages 2-4 of the response to office action filed on May 10, 2005.

By the office action of August 1, 2005, the Examiner has finally rejected Claims 1-21 under 35 USC § 103(a). More specifically, claims 1-6 and 21 stand rejected under 35 USC § 103(a) as being unpatentable over *Klein* (U.S. 5,835,763) in view of *Priven* (U.S. 5,327,559). Claims 7-18 stand rejected under 35 USC § 103(a) as being unpatentable over *Klein* in view of *Priven* and *Swartz* (U.S. 6,625,651). Claims 19-20 stand rejected under 35 USC § 103(a) as being unpatentable over *Klein* in view of *Priven* and *Panikatt* (U.S. 6,349,333). Thus, claims 1-21 stand or fall on the application of *Klein* and *Priven* to claim 1.

Improper Rejection

The claimed invention is a software method for administrating batch jobs on a computer or a computer network. A batch job is a computer program that performs a repetitive, low-priority task that typically requires no external input. Batch jobs are commonly used to run periodic (e.g. daily, weekly, or monthly) reports, update data, backup data, or sort data. One of the limitations of batch jobs is that they are written in a computer language (SQL, C++, Cobol, etc.) that is specific to the database that the batch job accesses. Because computer networks typically contain various different types of databases, the computer networks typically contain batch jobs written in various different computer languages. Prior batch jobs administrators have had difficulty administering batch jobs in various different computer languages on a single network. The present invention solves this administration problem by creating a language-independent capsule around each batch job so that the batch jobs appear to be in the same language to the batch job administrator, thereby improving system stability and performance.

Claim 1 is not obvious in view of *Klein* and *Priven* because *Klein* and *Priven* fail to teach

or suggest every claimed limitation. The requirements for establishing a *prima facie* case of

obviousness are well established:

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicants' disclosure. MPEP § 2142 citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Claim 1 reads:

> 1. A method for processing a batch job, comprising:
>   wrapping the batch job to create an application programming interface for communication with a batch framework, **the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job**; and
>   **invoking the batch framework according to a predetermined schedule via execution of a command line parameter**, wherein the method provides for efficient reuse of programming code and platform independence by encapsulating the batch job and providing a uniform application programming interface for an application processing the batch job according to the method.

First and foremost, the Examiner cannot meet the third prong of the obviousness test

because *Klein* and *Priven* do not teach or suggest the limitation of invoking a batch framework

according to a predetermined schedule via execution of a command line parameter. The

Examiner contends that "*Klein* [] teaches using a command line parameter for a batch framework

(col. 9, lines 60-63, col. 10, lines 25-32)." Specifically, *Klein*, col. 9, lines 60-63 and col. 10,

lines 25-32 read:

> ThreadName – This parameter specifies the name given to a thread, that is, it specifies the name of the batch job that will perform the function of the thread. This name follows the platform's standard convention.

JOBQ – This particular parameter provides the name of the batch submission system that the thread job is submitted to in the format that follows the platform's standard convention.

JOBD – This parameter provides the name of the batch job description that describes the thread job in the format that follows the platform's standard convention.

As explained by *Klein* in col. 9, lines 14-16, the ThreadName, JOBQ, and JOBD are constants and parameters used by a user's computer program. They are data fields that have fixed or variable values throughout the execution of a user's program. The ThreadName, JOBQ, and JOBD are not located in a command line and do not cause the execution or invocation of the batch framework. By contrast, the command line parameter recited in claim 1 is a string of text commands that is passed to the command interpreter for execution of a program, namely invocation of the batch framework. Clearly, the cited sections of *Klein* do not teach or suggest the limitation of using a command line parameter to invoke a batch framework according to a predetermined schedule. In fact, both *Klein* and *Priven* are completely silent as to the use of a command line parameter to execute any aspect of their inventions, much less to execute the invocation a batch framework according to a predetermined schedule. In contrast with *Klein* and *Priven*, claim 1 specifically recites the limitation of invoking a batch framework according to a predetermined schedule via execution of a command line parameter, which is not taught or suggested by *Klein* and/or *Priven*. Because *Klein* and *Priven* fail to teach or suggest a limitation in claim 1, the Examiner is unable to meet the third prong of the obviousness test and, consequently, cannot make out a *prima facie* case of obviousness.

Secondly, the Examiner cannot meet the third prong of the obviousness test because *Klein* and *Priven* do not teach or suggest the limitation of the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job. The Examiner has acknowledged that *Klein* does not teach using classes to dispatch

batch jobs. *See* August 1, 2005 Office Action, paragraph 5. The use of a class comprising a method to execute the batch job is fundamental to the architecture and functionality of Applicants' claimed invention, and the absence of such an important element cannot be readily dismissed. *Klein* does not teach or suggest the use of a class comprising a method to execute the batch job – in contrast, *Klein* employs a complicated array of threads and queues to achieve an entirely different purpose, namely the conversion of synchronous processing to asynchronous processing. The Examiner points out that *Klein* teaches a method to execute a batch job at col. 11, lines 7-11 and col. 5, lines 49-54, but such a method is employed in the overall thread/queue architecture and in no way relates to using classes to dispatch batch jobs. Respectfully, the Examiner's reliance on *Priven* does not make up for the deficiencies of the primary reference, *Klein*. Assuming for the sake of argument that *Priven* teaches that it is well known to use object oriented programming with classes and an API to dispatch the batch jobs, such general disclosure does not teach or suggest the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job, nor does it provide the requisite suggestion or motivation to alter the fundamental thread/queue architecture of *Klein* to arrive at the limitation of the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job. Because *Klein* and *Priven* fail to teach or suggest a limitation in claim 1, the Examiner is unable to meet the third prong of the obviousness test and, consequently, cannot make out a *prima facie* case of obviousness.

Atty Docket No.: IDF 1398 (4000-00700)   Patent
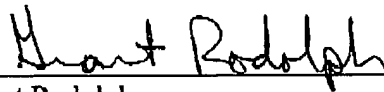
Summary

Applicants submit that the ground for rejection is improper because the cited prior art fails to teach or suggest the claimed limitations. Consequently, the Examiner is unable to present a prima facie case of obviousness as required by 35 USC § 103(a) and the applicants request that the rejection be withdrawn and the pending claims allowed.

Respectfully submitted,
CONLEY ROSE, P.C.

Date: ___10/25/05___

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FEE TRANSMITTAL
For FY 2005.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 500.00

Complete if Known

Application Number	09/698,729
Filing Date	October 27, 2000
First Named Inventor	Brandon Camp
Examiner Name	Kenneth Tang
Art Unit	2127
Attorney Docket No.	IDF 1398 (4000-00700)

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METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):_____

☑ Deposit Account Deposit Account Number: 21-0765 Deposit Account Name: Sprint

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☑ Charge fee(s) indicated below
☐ Charge fee(s) indicated below, except for the filing fee
☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
☑ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	Small Entity Fee ($)	SEARCH FEES Fee ($)	Small Entity Fee ($)	EXAMINATION FEES Fee ($)	Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

Total Claims 21 HP=21 -20 or HP = Extra Claims 0 x Fee ($) 50.00 = Fee Paid ($) 0.00
HP = highest number of total claims paid for, if greater than 20

Indep. Claims 1 -3 or HP = Extra Claims 0 x Fee ($) 200.00 = Fee Paid ($) 0.00
HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims Fee ($) ___ Fee Paid ($) ___

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets ___ -100 = Extra Sheets 0 / 50 = Number of each additional 50 or fraction thereof 0 (round up to a whole number) x Fee ($) 0 = Fee Paid ($) 0.00

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount) Fees Paid ($) 0.00
Other: Notice of Appeal 500.00

SUBMITTED BY

Signature	[signature]	Registration No. (Attorney/Agent) 50,487	Telephone (972) 731-2288
Name (Print/Type) Grant Rodolph			Date 10/25/05